

UNITED STATES OF AMERICA
 NATIONAL TRANSPORTATION SAFETY BOARD
 OFFICE OF ADMINISTRATIVE LAW JUDGES

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Investigation of:

MV ETHAN ALLEN,
 LAKE GEORGE, NEW YORK,
 OCTOBER 2, 2005

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 * Docket No.: DCA 06 MM 001
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Interview of: THEODORE MILEK

National Transportation Safety Board
 490 L'Enfant Plaza East, S.W.
 Washington, D.C. 20594

The above-captioned matter convened, pursuant to
 notice.

BEFORE: MARIETTE BURER

APPEARANCES:

MARIETTE BURER
National Transportation Safety Board

MAJ. STEVE RIVENBURGH
New York State Park Police

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1 I N T E R V I E W

MS. BURER: My name is Mariette Burer with the National Transportation Safety Board. I have with me --

MAJ. RIVENBURGH: Steve Rivenburgh, New York State
Park Police.

MS. BURER: And we are interviewing -- go ahead and say your name.

MR. MILEK: Theodore Milek.

MS. BURER: Okay.

INTERVIEW OF THEODORE MILEK

BY MS. BURER:

Q. Can you carry us through with what happened on the Ethan Allen on October 2, 2005?

A. You want me to start from when we pulled away from the dock?

Q. Wherever you are comfortable with starting. If you arrived prior to boarding, then I would like you to actually start.

A. Okay. Just before we had boarded, I noticed the Ethan Allen at the dock, and about 10 people were on board already. They were on the port side, and I noticed that the craft was lifting to the port side. One of the men that was sitting on that port side, he was a big guy, about 6'2, 220 pounds, got up and he went to the starboard side, and the craft started lifting to the -- not lifting, but correcting itself to

1 more of a level position. And a thought occurred to me, if one
2 man like that can shift the craft from porting to one side and
3 almost leveling off, they've got to have ballast tanks or
4 something that when we get on board, they'll correct that. Not
5 so. No ballasts, nothing. And the way this ship was loaded,
6 the way the boat was loaded, there were 30 passengers from the
7 center line to the port side and from the center line there was
8 an aisle way, and from the center line to the starboard side,
9 there were I believe 16 passengers. So right off the bat when
10 they left the dock, the Ethan Allen was shifted or lifting,
11 lifting to the port side a little bit. As we were traveling
12 and the captain was telling us about mansions and who lived
13 there, blah, blah, blah, about 20 minutes out, I noticed three
14 waves (indiscernible). They were about 5 or 6 feet apart,
15 maybe from crest to trough about 20 to 24 inches, that hit the
16 side of the craft at a 10 degree angle or so, and within a
17 minute or so, the whole thing started lifting about 30 degrees,
18 the port side going down, and it started to right itself but
19 didn't come back to a perfectly level position. It started
20 going again, lifting, and this time the port side went down low
21 and the starboard side was up high and the deck was about a 45
22 degree angle and people were screaming, terror type of screams,
23 and we paused in that position for I don't know, 5 or 10
24 seconds and then all of a sudden, it just flipped over. Within
25 a couple, 3 seconds, I was under water. It happened so fast.

1 Of course, I worked my way out eventually with my wife and my
2 sister-in-law. But that's it in a nutshell.

3 Q. Okay. Do you recall where you were sitting?

4 A. Yes. From the stern, there were 10 of these park
5 bench seats.

6 Q. Okay.

7 A. I was in the -- from the stern, I was in number 3.

8 Q. Okay.

9 A. It was extreme port side, my elbow was resting on
10 that railing and the wife was in the second position and my
11 sister-in-law was in the position near the aisle.

12 Q. Okay.

13 A. But we were stern, port side.

14 Q. Okay. Did you notice any kind of life jackets?

15 A. Absolutely none.

16 Q. Okay. And what about the windows? Can you tell me
17 the positions of the windows?

18 A. Well, there were plastic -- I guess they're plastic
19 panels that were hinged on the starboard side of the ceiling,
20 the top of the craft, and they were locked in the open
21 position. They were up in the roof part, locked in place, and
22 they had a lock that if you wanted to have them drop for bad
23 conditions, you could unlock it and the panel would then swing
24 from the -- pivot on the hinges and swing on down to the
25 railing that I was leaning against but they were all in that

1 position as far as I know.

2 Q. Okay. Did you, did you actually talk with the
3 captain or notice anything about his demeanor? Could you
4 describe the captain to me?

5 A. Well, he sounded like -- he was 74 or 75 years old,
6 and he had kind of a gravelly voice but was a fairly cheerful
7 type of man, but he gave us no safety instructions whatsoever.
8 No indication that life vests were available, or that they
9 were stored in some compartment which I didn't see but he
10 appeared to be sober if that's what you're driving at.

11 Q. No, I was actually just inquiring about your view and
12 your impressions of the captain.

13 A. Well, we have been on a bunch of these cruises before
14 and, you know, narrating what's on the shoreline and coming up
15 with funny stories and stuff but he seemed competent.

16 Q. Okay.

17 A. I'll put it that way. As far as it comes to steering
18 the boat and all that, he seemed to be competent.

19 Q. And was there another crew member on board or --

20 A. No, he was the only one.

21 Q. So if I understood you correctly, you were one of the
22 first to board the vessel?

23 A. No, we were near the tail end.

24 Q. The tail end. Okay. Did you see any kind of --
25 where was the person that you actually noticed, the captain,

1 where was the captain when you first noticed him?

2 A. I don't know whether he was on board as we were
3 boarding. All I know is that after we were on board and we
4 were seated, the ship -- the boat was put into reverse and we,
5 you know, started backing up away from the harbor. Whether he
6 was on ahead of us or whether he was on board after we arrived,
7 I don't know.

8 Q. Okay. How long do you believe that you were in the
9 water?

10 A. After it capsized?

11 Q. Yes.

12 A. Fifteen minutes maybe. It's hard to tell.

13 Q. Okay. And what -- did you sustain any injuries?

14 A. I had a mild heart attack according to the hospital
15 and a couple of bumps and bruises here and there, but nothing
16 serious.

17 Q. Okay. How long were you in the hospital?

18 A. Four days.

19 Q. So what day did you actually get released?

20 A. Wednesday afternoon.

21 Q. Okay.

22 A. Whatever date that is.

23 Q. And how are you doing currently?

24 A. How am I doing currently?

25 Q. Yes.

1 A. It's pretty hard to forget what happened. Every time
2 I sit still and start reading the newspaper, for some reason my
3 mind wanders back to that accident. Other than that, I'm
4 holding up okay.

5 Q. Okay. Now can you tell me a little bit about the
6 conditions, the weather conditions, the water conditions on
7 this particular trip?

8 A. Okay. It was a beautiful day. There was hardly a
9 cloud in the sky. The lake was very calm. I mean the waves,
10 at the most, six inches high I would say, and not very windy.
11 Just a little bit of a breeze where I was sitting. It was just
12 a beautiful day.

13 Q. Did -- when you were riding the vessel, how -- the
14 seats, can you describe the seats that you were sitting on?

15 A. To me they looked like park benches. The backs had
16 like three or four slats going horizontally. The seats were
17 the same way. They were curled slight for the contour of your
18 legs and butt, and they were just flat, and there were no
19 armrests to separate the people. You had three per bench.
20 There was an armrest on the extreme right-hand side, and then
21 it was all bench and up against the wall on the port side, and
22 clearly when this thing started tilting, these people started
23 sliding in towards port side compounding the unbalanced system
24 as far as I'm concerned. Were people sliding into you?

25 A. Well, my wife was sitting next to me, and when it

1 first started lifting, like I say, I could feel her pushing
2 against me a little bit, yeah.

3 Q. Okay. At any point did you have eye contact or did
4 you turn around to take a look at the captain during the
5 voyage?

6 A. During the voyage, (indiscernible) he was talking
7 about -- there were some paddle boats way off, off the
8 starboard side and he said they just had a wedding on one of
9 those paddle boats, and those paddle boats were in the water,
10 but it was way off the starboard side, I'd say a half a mile
11 away or so.

12 Q. Okay.

13 A. And, of course, I saw the captain, but that was it.

14 Q. Okay. I'm going to go ahead and turn it over to
15 Steve.

16 BY MAJ. RIVENBURGH:

17 Q. Mr. Milek --

18 A. Yes.

19 Q. -- Steve Rivenburgh with the State Park Police.
20 Prior to boarding or when you were in line for boarding, do you
21 recall if you saw any other crew members for the vessel?

22 A. I'm not sure when I first saw the captain. I just
23 don't know when.

24 Q. Okay. Do you know if your boat -- your bus driver,
25 if he was going to go with you?

1 A. No.

2 Q. Okay.

3 A. He usually did not go with us, not the bus driver.

4 Q. Okay. Do you recall any interaction between your
5 tour guide and some other tour members about getting on the
6 boat and not getting on the boat?

7 A. All I know is that they had seats aboard this craft
8 for I think 46 people, and we had 48 tourists on the bus and
9 the bus driver and the tour guide. That made a total of 50 on
10 our bus. The tour guide got on the boat.

11 Q. Uh-huh.

12 A. And they couldn't squeeze a couple of women. So they
13 were just left standing at the dock, and I understand after
14 reading this in the news, that one woman, an Irish woman,
15 definitely said I'm not going on that junk or something like
16 that and she did not board it.

17 Q. Uh-huh.

18 A. But I'm only aware of that through the new media.

19 Q. Okay. Do you recall who was sitting directly in
20 front of you?

21 A. No, I don't.

22 Q. How about directly behind you?

23 A. No, I don't.

24 Q. And we know no one sat on your left and we know your
25 wife sat on your right, correct?

1 A. Yes.

2 Q. Okay.

3 A. And my sister-in-law was on the right of her.

4 Q. Yeah. Two very nice ladies by the way.

5 A. Thank you.

6 Q. You mentioned, you mentioned you were about 20
7 minutes out when you saw three waves coming at the vessel?

8 A. Estimating the time is very general.

9 Q. Yeah.

10 A. I saw these three waves. They looked like a wake of
11 a ship.

12 Q. Okay.

13 A. But I did not see any ships because I was looking
14 down in the water and towards the bow of the ship, and these
15 three waves, they were about 5 foot apart, and maybe 2 foot
16 high, they hit the ship -- the boat, at a 10 degree angle, and
17 I'd say maybe about a minute after that, the thing started
18 lifting so bad.

19 Q. Okay. Do you know if the captain -- any actions on
20 the part of the captain when those waves were coming at you or
21 the wakes were coming at you?

22 A. Nothing. I couldn't tell whether he was steering
23 into the waves or not steering into them or steering away from
24 them. I do not know. You know, in theory, with small boats,
25 you're always supposed to steer into waves like that because it

1 gives you better stability and control of your own craft and
2 what happened was, this craft here, as far as the captain
3 steering, I do not know.

4 Q. Okay. I take it that you're retired, sir?

5 A. Yes.

6 Q. And what are you retired from?

7 A. I was an engineer with General Motors Corporation.

8 Q. I tell you what, you could built cars with the number
9 of engineers on board that vessel.

10 MS. BURER: Yeah.

11 BY MAJ. RIVENBURGH:

12 Q. How long were you with GM?

13 A. Thirty-one years. As a design engineer, we worked at
14 that time with the automatic transmissions, the hydromatic.

15 Q. The good old hydromatic.

16 A. Yeah, we thought they were the best.

17 Q. I had one in my '59 I believe. Do you boat, sir?

18 A. No.

19 Q. Okay. Do you swim?

20 A. Oh, yeah, I can swim maybe 100 yards, side stroke,
21 backstroke, front stroke, I can make it 100 yards if I have to,
22 unless I ran out of breath or something.

23 Q. Okay. Were you ever a fireman or were you in the
24 service?

25 A. Yes. In the Army and ended up in the Philippines.

1 My total service time is three years and a couple of weeks.

2 Q. World War II, sir?

3 A. World War II.

4 Q. Okay. Army?

5 A. Army, infantry.

6 Q. I'd say something but the ladies in our lives
7 wouldn't understand what I was saying to you. Okay. I have no
8 questions -- further questions at this point. Thank you.

9 A. Thank you.

10 BY MS. BURER:

11 Q. Mr. Milek, thank you so much. I really do not have
12 any further questions either, but I do have your telephone
13 number and I would like to get your permission, in case we have
14 any additional questions at a later time, would it be okay to
15 contact you?

16 A. Anytime is fine.

17 Q. Okay. Thank you, sir, so much, and I'm going to go
18 ahead and turn off the recorder.

19 A. Before you turn that off --

20 Q. Yeah.

21 A. -- is there an effort made to see where the deceased
22 were situated or seated.

23 Q. Yeah, that is going to be part of my job. I have a
24 generic seating arrangement of the boat, and what I'm trying to
25 do is while talking to all the passengers, figure out exactly

1 where they were located. So that's why one of the questions I
2 asked is not only the height and the weight, but also the
3 seating so that we can slowly but surely fill in all the
4 places.

5 A. One of the couples that didn't make it, they were
6 seated on the starboard side, way forward in the first or
7 second seats from the front.

8 Q. And that's on the starboard side.

9 A. On the starboard side, way up in the bow.

10 Q. Okay. And do you recall their names?

11 A. Yes.

12 Q. Okay.

13 A. William and Carol Gilson, G I L S O N. I saw them
14 sitting up forward there.

15 Q. That's G I L S O N, correct?

16 A. Yes.

17 Q. Okay. And that's what side again? The two seaters
18 or the three seaters?

19 A. That was two seats.

20 Q. Two seaters.

21 A. It was only two rows on the starboard side
22 -- I mean two seats on the starboard side, then you had an
23 aisle and then you had three seats on the port side.

24 Q. Okay.

25 BY MAJ. RIVENBURGH:

1 Q. Was Bill on the aisle or window?

2 A. I don't remember. All I know is that he and his wife
3 were sitting in those two seats way up forward. I'm not sure
4 where he was.

5 MS. BURER: Okay.

6 MR. MILEK: My wife, when the thing nearly tipped
7 over, she said she saw them flying through the air. That's
8 what she said. Flying through the air.

9 BY MAJ. RIVENBURGH:

10 Q. Okay. And you believe it was the action of the
11 waves?

12 A. They honestly weren't that big. I can't see where
13 those waves would have influenced the action of this particular
14 boat.

15 Q. Uh-huh.

16 A. But not being a seaman, you know, I can't say.

17 Q. Okay. When -- did the people start moving before or
18 after the waves started hitting the vessel?

19 A. Well, the waves hit the vessel, there was no problem
20 until the boat started tilting about 30 degrees with the port
21 going down and the starboard going up. People started oohing
22 and ahing, a thrilling type of a remark, and then it settled
23 down almost horizontally and then it swung back up with the
24 starboard side going up and the port was down low, almost a 45
25 degree angle, and now the people are screaming terror, I mean

1 sheer terror screams, horrible, you know, and then in a second
2 or two, it just flipped over altogether, 180 degrees, so fast.

3 Q. Uh-huh.

4 A. Now how many people were sliding and that, I did not
5 see but my wife said that this couple, Bill and Carol Gilson,
6 she said that I saw them flying through the air. Those were
7 her words.

8 BY MS. BURER:

9 Q. Yeah, I actually see that in my statement that I have
10 with her, that she said exactly that.

11 A. She said that?

12 Q. Yes, yes, in the interview that we had with her.

13 A. I did not see that. She said she saw it.

14 Q Yeah, that was on the 5th of October when we
15 interviewed your wife and your sister-in-law.

16 A. Uh-huh.

17 Q. Okay.

18 A. That's about it from my end.

19 MS. BURER: Okay.

20 MAJ. RIVENBURGH: We thank you, sir.

21 MS. BURER: Thank you.

22 MR. MILEK: You're welcome. I'm available any time
23 you want to call back.

24 MS. BURER: Okay. Thank you again. It's very much
25 appreciated.

1 MR. MILEK: Thank you.

2 MS. BURER: Bye-bye.

3 MR. MILEK: Good-bye.

4 (Whereupon, the interview in the above-entitled
5 matter was concluded.)

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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: MV Ethan Allen
 Lake George, New York,
 October 2, 2005
 Interview of Theodore Milek

DOCKET NUMBER: DCA 06 MM 001

PLACE: Washington, D.C.

DATE: October 2005

was held according to the record, and that this is the
original, complete, true and accurate transcript which has been
compared to the recording accomplished at the hearing.

Kathryn A. Mirfin
Transcriber